

UNREPORTED

IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2281

September Term, 2013

JARROD W. RAMOS

ERIC THOMAS HARTLEY, et al.

Wright,
Graeff,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Moylan, J.

CERTIFIED TRUE COPY

Filed: September 17, 2015

Sergay Milton Nad
Clerk, Court of Special Appeals

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The appellant of this pro se appeal is Jarrod W. Ramos. The appellees are 1) Eric Thomas Hartley, formerly a staff writer and columnist with The Capital; 2) Thomas L. Marquardt, the editor and publisher of The Capital; and 3) Capital Gazette Communications, LLC.

The factual background to the defamation action is that on July 26, 2011, the appellant entered a guilty plea on a charge of criminal harassment in the District Court of Maryland sitting in Anne Arundel County. Judge Jonas D. Legum initially imposed a 90-day jail sentence but then suspended the sentence and placed the appellant on supervised probation for a period of 18 months with the additional requirement that the appellant continue with his ongoing therapy and that he refrain from any further contact with the harassment victim or her family.

Five days later, on July 31, 2011, the article in issue by staff writer Eric Thomas Hartley appeared in the Sunday issue of The Capital under the heading "Anne Arundel Report." The article was entitled, "Jarrod wants to be your friend." The article, in its entirety, read:

"If you're on Facebook, you've probably gotten a friend request or message from an old high school classmate you didn't quite remember.

"For one woman, that experience turned into a yearlong nightmare.

"Out of the blue, Jarrod Ramos wrote and thanked her for being the only person ever to say hello or be nice to him in school.

"She didn't remember him, so he sent pictures. She Googled him, found a yearbook picture and realized they apparently did go to Arundel High together.

"He was having some problems, so she wrote back and tried to help, suggesting a counseling center.

"I just thought I was being friendly,' she said.

"That sparked months of emails in which Ramos alternately asked for help, called her vulgar names and told her to kill herself. He emailed her company and tried to get her fired.

"She stopped writing back and told him to stop, but he continued. When she blocked him from seeing her Facebook page, he found things she wrote on other people's pages and taunted her with it, attaching screenshots of the postings to some of his emails.

"She called police, and for months he stopped. But then he started again, nastier than ever.

"All this without having seen her in person since high school. They never met until they came to court a couple of months ago.

"Last week, Ramos, a 31-year-old federal employee, pleaded guilty in District Court to a misdemeanor harassment charge.

"Judge Jonas Legum, who called his behavior 'rather bizarre,' suspended a 90-day jail sentence and placed him on probation, ordering him to continue in therapy and not contact the victim or her family in any way.

"The case is extreme. But it provides a frightening look at the false intimacy the Internet can offer and the venom that can hide behind a computer screen.

"I read about this all the time, where Facebook conversations, email conversations, start out fine and then take a turn where they become nastier over the course of time,' said Ramos' lawyer, Christopher Drewniak, 'And this is apparently one of those situations.'

"The victim, who asked that her name not be printed, said she lived in fear for her safety for months.

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"The emails started in late 2009 or early 2010 – she can't remember exactly, because it was only a few months later that they grew disturbing and she started documenting things.

"At first, she felt bad for him, so she shared some personal information and offered advice.

"But when it seemed to me that it was turning into something that gave me a bad feeling in the pit of my stomach, that he seems to think there's some sort of relationship here that does not exist ... I tried to slowly back away from it, and he just started getting angry and vulgar to the point I had to tell him to stop,' she told the judge.

"And he was not OK with that. He would send me things and basically tell me, "You're going to need restraining order now." "You can't make me stop. I know all these things about you." "I'm going to tell everyone about your life."

"An email in April 2010 said, 'Have another drink and go hang yourself, you cowardly little lush. Don't contact you again? I don't give a (expletive). (Expletive) you.'

"Later that month, the woman was suddenly put on probation at the bank where she worked. She said a supervisor told her it was because of an email from Ramos and a follow-up phone call in which he advised them to fire her.

"She said she was laid off in September and believes, but can't prove, it was because of Ramos. She's since gotten another job.

"When she learned what Ramos had done, she called police. He stopped contacting her for a while and started counseling in November. Still, the silence was not comforting.

"That just left me to feel like he was stewing,' she said. 'For all the time he was silent, he's collecting things about me. And then comes back at me, like, 10 times worse than he had before.'

"The messages resumed in January, referring to friends' Facebook profiles and postings about her and about Ramos himself.

"His messages rambled, calling her 'a bipolar drunkard leading a double life' and saying 'Expletive you, leave me alone' though she hadn't written him in months. He told her she was afraid to let a man get close to her and discussed her family, friends, job and Rotary Club involvement — all information gleaned from the Internet."

"In January, the victim went to court to get a peace order and file charges. Finally, he stopped for good. Ramos, a tall, thin man with long hair he wears in a ponytail, did not speak at the hearing and did not return a call for comment left with his attorney.

"He has a degree in computer engineering and has worked for the U.S. Bureau of Labor Statistics for six years, Drewniak said. He had no previous criminal record."

"Detective Rob Cremen, who handles domestic violence cases in the county police Southern District, said sustained harassment like this is rare.

"Facebook and networks like it offer the chance to reconnect with old friends. But they also can invite unwanted attention. Many people don't realize how much information about them is on social networking sites and elsewhere on the web."

"It's kind of a double-edged sword," Cremen said."

On July 23, 2012, just one week before the expiration of the one-year statute of limitations, the appellant filed his initial complaint, charging the appellees with defamation, in the Circuit Court for Prince George's County ("the July Complaint"). The appellant failed to serve a copy of the complaint on the appellees. This July complaint alleged in its entirety:

"1. On July 31, 2011, Eric Thomas Hartley, Thomas Lee Marquardt, Capital-Gazettee Communications, Inc., and Capital-Gazette Communications, LLC (collectively, 'Defendants') published the newspaper column 'Jarrod wants to be your friend' ('Article').

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- "2. Article contains defamatory statements of and concerning Jarrod W. Ramos ('Plaintiff'), which were read and recognized to be defamatory by third persons, injuring Plaintiff's reputation and exposing him to public scorn, hatred, contempt, and ridicule;
- "3. These defamatory statements were and continue to be false;
- "4. Defendants communicated these defamatory statements with negligence, reckless disregard for their possible falsity, and actual knowledge of their falsity.
- "5. As a direct result, Plaintiff has suffered harm and continues to incur harm."

There was no supporting documentation or affidavit submitted with the complaint.

On October 9, 2012, and over two months after the statute of limitations for a defamation claim had expired, the appellant filed a fuller complaint ("the October complaint"). Instead of four bare-bones paragraphs, the October complaint was one of 22 pages. The October complaint also added the charge of invasion of privacy.

Although we have serious reservations over whether the October complaint can be found to relate back to the July complaint and is, therefore, even cognizable, it is completely unnecessary to anguish over this nuance in the filing chronology. But see, Crowe v. Houseworth, 272 Md. 481, 485-86 (1974); Fischer v. Longest, 99 Md. App. 368 (1994).

Even the fuller October complaint, assuming its viability, palpably fails to state, as the hearing judge found and ruled, a chargeable offense. One solid reason for affirming the trial court is enough. Scott v. Jenkins, 345 Md. 21, 28 (1997) ("Plaintiff must allege sufficient

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facts that, if prove true, would support every element of the asserted claim.") (Emphasis supplied).

On November 26, 2012, the appellees filed a Motion by Defendants to Dismiss with Prejudice the Complaint and a Request for Hearing. A full hearing was conducted by Judge Maureen M. Lamasney on March 29, 2013. The appellant's complaint was that he had been defamed in a newspaper article about his having pleaded guilty to a charge of criminal harassment. At the motion hearing, Judge Lamasney probed the appellant to point out a single statement in the article that was actually false or to give a single example of how he had been harmed by the article. He could not do so. Judge Lamasney's ruling was clear:

"THE COURT: "All right. Mr. Ramos, I'm going to grant the defendant's motion to dismiss this case. And it will be dismissed with prejudice. And I'm going to grant it for the following reasons: You are required in your complaint to state a claim with sufficient specificity."

"MR. RAMOS: Your Honor –

"THE COURT: I'm talking now.

"MR. RAMOS: Yes, I'm sorry.

"THE COURT: And dismissal is proper only if the facts and inferences, even if proven, would not entitle the plaintiff to relief. And that is what I am finding in your case, that you do not lay out a prima facie case for defamation or for invasion of privacy, or being placed in the false light.

"And the reason I'm finding that is that there is absolutely not one piece of evidence, or an assertion by you that the statement was false.

"The one statement you refer to concerning the rambling and referring to messages that you answered when there had been no contact comes directly

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from the statement of charges, where she writes; most of his messages are just pages of ramblings regarding my friends, family, job, Rotary Club involvement.

"And it goes on to say that you tell her to leave you alone, and you haven't responded for months. That comes right out of a public document.

"You know, I understand exactly how you feel. I think people who are the subject of newspaper articles, whoever they may be, feel that there is a requirement that they be placed in the best light, or they have an opportunity to have the story reported to their satisfaction, or have the opportunity to have however much input they believe is appropriate.

"But that's simply not true. There is nothing in those complaints that prove that anything that was published about you is, in fact, false.

"It all came from a public record. It was of the result of a criminal conviction. And it cannot give rise to a defamation suit.

"MR. RAMOS: Your Honor, if I may say one more thing?

"THE COURT: Go ahead.

"MR. RAMOS: I would add that the public record from which that statement came from, was not even identified in the column, there was nothing to lead a reader to understand where that statement was being taken from.

"THE COURT: I understand that, but that does not make it false.

"MR. RAMOS: But it makes it unfair.

"THE COURT: I'm sorry, but I am going to dismiss your suit with prejudice.

"MR. RAMOS: And Your Honor, that is only one statement. There are a number of other statements.

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"THE COURT: Well, I just referred to the one that you referred to, and I think I put on the record that there is nothing that you have alleged that was false, so I'm going to grant the motion, sir.

"MR. RAMOS: If I understand correctly, then the basis is that there's not a showing of falsity?

"THE COURT: Correct.

"MR. RAMOS: And rather that there is an application of privilege.

"THE COURT: Correct, both that the article was simply not defamatory, that it was based on public record, that you haven't alleged that it was false, and that the article appears to be substantially accurate, and it would fall into the privilege which would make any complaint unsustainable, because they reported a criminal case. They reported a matter of public interest."

(Emphasis supplied).

A discussion of defamation law would be an exercise in futility, because the appellant fails to come close to alleging a case of defamation. In his five-page brief, the appellant devotes two and one-half pages to legal argument. He never alleges that any basic fact contained in the article about his guilty plea is actually false. He claims only that "Hartley's column fails the test of fairness because he editorialized on the story's meaning." There is no allegation of any specific harm that he suffered as a result of the article. He simply described the harm as "incalculable, unforeseen, and potentially unknowable." That does not do it.

The appellant is pro se. A lawyer would almost certainly have told him not to proceed with this case. It reveals a fundamental failure to understand what defamation law is and,

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more particularly, what defamation law is not. The appellant is aggrieved because the newspaper story about his guilty plea assumed that he was guilty and that the guilty plea was, therefore, properly accepted. He is aggrieved because the story was sympathetic toward the harassment victim and was not equally understanding of the harassment perpetrator. The appellant wanted equal coverage of his side of the story. He wanted a chance to put the victim in a bad light, in order to justify and explain why he did what he did. That, however, is not the function of defamation law.

The appellant was charged with a criminal act. The appellant perpetrated a criminal act. The appellant plead guilty to having perpetrated a criminal act. The appellant was punished for his criminal act. He is not entitled to equal sympathy with his victim and may not blithely dismiss her as a "bipolar drunkard." He does not appear to have learned his lesson.

**JUDGMENT AFFIRMED; COSTS
TO BE PAID BY THE APPELLANT.**

Case No. C-02-CR-18-1515

- Plaintiff's/State
- Defendant's Exhibit
- Court's
- Joint

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